

(2) The CAIR designated representative of a CAIR NO<sub>x</sub> Ozone Season unit that is subject to an Acid Rain emissions limitation may submit a petition under § 75.66 of this chapter to the permitting authority and the Administrator requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under § 75.72 of this chapter. Application of an alternative to any such requirement is in accordance with this subpart only to the extent that the petition is approved in writing by both the permitting authority and the Administrator.

### Subpart IIII—CAIR NO<sub>x</sub> Ozone Season Opt-in Units

SOURCE: 70 FR 25382, May 12, 2005, unless otherwise noted.

#### § 96.380 Applicability.

A CAIR NO<sub>x</sub> Ozone Season opt-in unit must be a unit that:

- (a) Is located in the State;
- (b) Is not a CAIR NO<sub>x</sub> Ozone Season unit under § 96.304 and is not covered by a retired unit exemption under § 96.305 that is in effect;
- (c) Is not covered by a retired unit exemption under § 72.8 of this chapter that is in effect;
- (d) Has or is required or qualified to have a title V operating permit or other federally enforceable permit; and
- (e) Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of subpart HHHH of this part.

#### § 96.381 General.

(a) Except as otherwise provided in §§ 96.301 through 96.304, §§ 96.306 through 96.308, and subparts BBBB and CCCC and subparts FFFF through HHHH of this part, a CAIR NO<sub>x</sub> Ozone Season opt-in unit shall be treated as a CAIR NO<sub>x</sub> Ozone Season unit for purposes of applying such sections and subparts of this part.

(b) Solely for purposes of applying, as provided in this subpart, the requirements of subpart HHHH of this part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not

yet issued or denied under this subpart, such unit shall be treated as a CAIR NO<sub>x</sub> Ozone Season unit before issuance of a CAIR opt-in permit for such unit.

#### § 96.382 CAIR designated representative.

Any CAIR NO<sub>x</sub> Ozone Season opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this subpart, located at the same source as one or more CAIR NO<sub>x</sub> Ozone Season units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO<sub>x</sub> Ozone Season units.

#### § 96.383 Applying for CAIR opt-in permit.

(a) *Applying for initial CAIR opt-in permit.* The CAIR designated representative of a unit meeting the requirements for a CAIR NO<sub>x</sub> Ozone Season opt-in unit in § 96.380 may apply for an initial CAIR opt-in permit at any time, except as provided under § 96.386 (f) and (g), and, in order to apply, must submit the following:

(1) A complete CAIR permit application under § 96.322;

(2) A certification, in a format specified by the permitting authority, that the unit:

(i) Is not a CAIR NO<sub>x</sub> Ozone Season unit under § 96.304 and is not covered by a retired unit exemption under § 96.305 that is in effect;

(ii) Is not covered by a retired unit exemption under § 72.8 of this chapter that is in effect;

(iii) Vents all of its emissions to a stack; and

(iv) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under § 96.322;

(3) A monitoring plan in accordance with subpart HHHH of this part;

(4) A complete certificate of representation under § 96.313 consistent with § 96.382, if no CAIR designated representative has been previously designated for the source that includes the unit; and

(5) A statement, in a format specified by the permitting authority, whether

the CAIR designated representative requests that the unit be allocated CAIR NO<sub>x</sub> Ozone Season allowances under § 96.388(b) or § 96.388(c) (subject to the conditions in §§ 96.384(h) and 96.386(g)). If allocation under § 96.388(c) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

(b) *Duty to reapply.* (1) The CAIR designated representative of a CAIR NO<sub>x</sub> Ozone Season opt-in unit shall submit a complete CAIR permit application under § 96.322 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for title V operating permits, or the permitting authority's regulations for other federally enforceable permits if applicable, addressing permit renewal.

(2) Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR NO<sub>x</sub> Ozone Season opt-in unit from the CAIR NO<sub>x</sub> Ozone Season Trading Program in accordance with § 96.186 or the unit becomes a CAIR NO<sub>x</sub> Ozone Season unit under § 96.304, the CAIR NO<sub>x</sub> opt-in unit shall remain subject to the requirements for a CAIR NO<sub>x</sub> Ozone Season opt-in unit, even if the CAIR designated representative for the CAIR NO<sub>x</sub> Ozone Season opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under paragraph (b)(1) of this section.

[70 FR 25382, May 12, 2005, as amended at 71 FR 25396, Apr. 28, 2006]

#### § 96.384 Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under § 96.383 is submitted in accordance with the following:

(a) *Interim review of monitoring plan.* The permitting authority and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under § 96.383. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain informa-

tion demonstrating that the NO<sub>x</sub> emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with subpart HHHH of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) *Monitoring and reporting.* (1)(i) If the permitting authority and the Administrator determine that the monitoring plan is sufficient under paragraph (a) of this section, the owner or operator shall monitor and report the NO<sub>x</sub> emissions rate and the heat input of the unit and all other applicable parameters, in accordance with subpart HHHH of this part, starting on the date of certification of the appropriate monitoring systems under subpart HHHH of this part and continuing until a CAIR opt-in permit is denied under § 96.384(f) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO<sub>x</sub> Ozone Season Trading Program in accordance with § 96.386.

(ii) The monitoring and reporting under paragraph (b)(1)(i) of this section shall include the entire control period immediately before the date on which the unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g), during which period monitoring system availability must not be less than 90 percent under subpart HHHH of this part and the unit must be in full compliance with any applicable State or Federal emissions or emissions-related requirements.

(2) To the extent the NO<sub>x</sub> emissions rate and the heat input of the unit are monitored and reported in accordance with subpart HHHH of this part for one or more control periods, in addition to the control period under paragraph (b)(1)(ii) of this section, during which control periods monitoring system availability is not less than 90 percent under subpart HHHH of this part and the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements and which control periods begin not more than 3 years before the unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g), such information shall be used as provided in paragraphs (c) and (d) of this section.